

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition

of

DECISION

HANOVER TOWNSHIP SENIOR CITIZENS CLUB

for Redetermination of Exempt Organization  
Status under Articles 28 and 29 of the Tax Law.

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Petitioner, Hanover Township Senior Citizens Club, c/o Theodore E. Jagacinski, 9 Highland Avenue, **Whippany**, New Jersey 07981, filed a petition for redetermination of exempt organization status under Articles 28 and 29 of the Tax Law (File No. 68576).

A hearing was held before Arthur Johnson, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on April **30**, 1987 at 1:15 P.M. Petitioner appeared by Theodore E. Jagacinski. The Audit Division appeared by John P. Dugan, Esq. (Gary Palmer, Esq., of counsel).

#### ISSUE

**Whether the** Audit Division properly denied petitioner's application for an exempt organization certificate.

#### FINDINGS OF FACT

1. On November 11, 1985, petitioner, Hanover Township Senior Citizens Club, by its president, William E. Dixon, filed an Application for an Exempt Organization Certificate (Form ST-119.2) seeking exemption from sales and use taxes under section 1116(a)(4) of the Tax Law.

2. By letter dated March 6, 1986, the Audit Division denied petitioner's application, stating the basis for such action as follows:

"Your organization fails to meet the organizational test for the following reasons:

1. The stated purposes specified in Article 1, section 2 of your Constitution are not exclusively educational within the above definition of that term.

\* \* \*

2. Your Constitution and Bylaws lack the required non-inurement, restrictive legislation and dissolution provisions.

\* \* \*

Your organization does not meet the operational test for exemption. The information presented discloses that, although some of your activities may be in furtherance of exempt purposes, it is primarily operated for social and recreational purposes."

3. Petitioner's purposes as stated in Article I of its Constitution and By-Laws are:

"The purpose of the Senior Citizens Club shall be:

- (a) To promote the good and welfare of all Senior Citizens of Hanover Township with dignity and respect.
- (b) The cultivation of friendships and the development of mutual interests, the sharing of social, educational and recreational projects.
- (c) To do community service, volunteer work and contribute to charitable causes."

4. Article 11, Section 1 of the Constitution and By-Laws provides that membership in the Club shall be limited to any resident of Hanover Township, sixty years of age or over, employed or unemployed. Section 2 provides that the first meeting of the month shall be a business and social meeting and the second, with certain exceptions, shall be social. The primary source of funds was from the Township of Hanover Recreation Commission budget and the dues paid

by members. Petitioner had six elected officers and five standing committees which included welfare, refreshments, publicity, membership and activities.

5. A statement of petitioner's receipts and expenditures for the period January 1, 1985 through October 31, 1985 are as follows:

<u>Receipts</u>	
Dues: 400 @ \$7.00	\$2,376.00
Contributions	766.00
Dept. of Recreation	3,200.00
Fund raising - dinner dance tickets	<u>3,021 .00</u>
Total	\$9,363.00
 <u>Expenditures</u>	
Band, food	\$2,798.00
Bus trips	2,390.00
Contributions	<u>180.00</u>
Total	\$5,368.00

6. Petitioner's activities during 1985 were:

January	--	installation of officers dinner
April	--	bus trip to Radio City Music Hall
May	--	bus trip to Hunterdon Hills Playhouse, dinner
June	--	bus trip to Brickman's in Catskills
August	--	bus trip to Hunterdon Hills Playhouse, dinner
September	--	bus trip to Browns in Catskills
October	--	anniversary dinner
	--	bus trip to Wildwood, N.J.
December	--	Christmas dinner
	--	bus trip to Radio City Music Hall

7. Petitioner invited guest speakers to some of its monthly business meetings to talk on subjects of interest to senior citizens.

8. Charitable activities performed by petitioner were "Dial-A-Ride", which was a program that provided transportation for those people without means. Petitioner's members volunteered as drivers and dispatchers. Members also assisted with the "Meals on Wheels" program.

#### CONCLUSIONS OF LAW

A. That Tax Law § 1116(a)(4) provides an exemption from the sales and compensating use taxes imposed under Article 28 to "[a]ny corporation, associa-

tion, trust, or community chest, fund or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary or educational purposes". In ascertaining whether an organization is organized exclusively for one or more of the enumerated exempt purposes, the focus is on the provisions of the organizing documents (20 NYCRR 529.7[c][1]). On the other hand, in determining whether the organization is operated exclusively for one or more exempt purposes, the focus is on the organization's activities.

"An organization will be regarded as 'operated exclusively' for one or more exempt purposes only if almost all of its activities accomplish one or more exempt purposes specified in section 1116(a)(4) of the Tax Law.... An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose." (20 NYCRR 529.7[d][2].)


B. That although some of petitioner's activities are educational and charitable in nature, a substantial portion of them are in furtherance of social and recreational purposes. Moreover, petitioner's Constitution and By-Laws lack the clauses for non-inurement, restrictive legislation and dissolution provisions required by 20 NYCRR 529.7(c). Accordingly, petitioner is neither organized nor operated exclusively for any of the purposes specified in section 1116(a)(4) of the Tax Law and its application for exempt organization status was properly denied by the Audit Division.

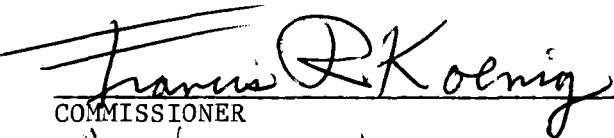
C. That the petition of Hanover Township Senior Citizens Club is hereby denied.


DATED: Albany, New York

STATE TAX COMMISSION

**AUG 21 1987**

  
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PRESIDENT

  
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COMMISSIONER

  
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COMMISSIONER